DOCUMENT RESUME

ED 280 401 HE 020 252

AUTHOR Budig, Jeanne E.
TITLE Comparable Worth and the Office of Institutional Research. AIR 1986 Annual Forum Paper.
PUB DATE Jun 86
NOTE 14p.; Paper presented at the Annual Forum of the Association for Institutional Research (26th, Orlando, FL, June 22-25, 1986).
PUB TYPE Viewpoints (120) -- Speeches/Conference Papers (150)

EDRS PRICE MF01/PC01 Plus Postage.
DESCRIPTORS *College Faculty; *Comparable Worth; Court Litigation; *Employment Practices; Federal Legislation; Higher Education; Personnel Policy; *Salaries; *Salary Wage Differentials; *Sex Discrimination
IDENTIFIERS *AIR Forum

ABSTRACT

Comparable worth and pay equity issues are considered, along with implications for college institutional researchers. Comparable worth is generally defined as a policy of paying equal pay for work of comparable value. After discussing the issues and tracing relevant legislation, attention is directed to ways that the institutional research office can work with the personnel director, affirmative action officer, recruitment staff, and legal staff. Included are data on average earnings of men and women by age, salary differences for working women and men based on marital status, and women's and men's earnings for different occupations. Advantages of comparable worth include elimination of alleged wage discrimination, reversal of historical stereotypes that have undervalued women's jobs, while disadvantages include the fact that there is no universal standard of how to measure comparable worth and that implementation costs are high. A faculty member alleging a violation of the Equal Pay Act must show that the employer paid more to a faculty member of the opposite sex for the performance, under similar working conditions, of a job requiring substantially equal skill, effort, and responsibility. (SW)

****
* Reproductions supplied by EDRS are the best that can be made *
* from the original document. *
****

ED280401

Comparable Worth and the Office of Institutional Research

Dr. Jeanne E. Budig
Assistant to the President for
Research and Planning

Vincennes University
Vincennes, IN 46591

U.S. DEPARTMENT OF EDUCATION
Office of Educational Research and Improvement
EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)

✓ This document has been reproduced as received from the person or organization originating it.

☐ Minor changes have been made to improve reproduction quality.

• Points of view or opinions stated in this document do not necessarily represent official OERI position or policy.

PERMISSION TO REPRODUCE THIS MATERIAL HAS BEEN GRANTED BY

AIR

TO THE EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)."

Association for Institutional Research
1986 Forum
Orlando, Florida
June 23-25, 1986

HE 020 252

for Management Research, Policy Analysis, and Planning

This paper was presented at the Twenty-Sixth Annual Forum of the Association for Institutional Research held at the Marriott Orlando World Center, Orlando, Florida, June 22-25, 1986. This paper was reviewed by the AIR Forum Publications Committee and was judged to be of high quality and of interest to others concerned with the research of higher education. It has therefore been selected to be included in the ERIC Collection of Forum Papers.

Ann K. Dickey, Chair
Forum Publications Editorial
Advisory Committee

Comparable Worth and the Office of Institutional Research

ABSTRACT: Comparable Worth - equal pay for work that involves responsibilities of commensurate value to the employer - has been called "the salary administration issue of the '80s." Its impact on colleges and universities has yet to be felt. This paper defines the issues, traces the legislation, and suggests ways the Institutional Research office can work with the Personnel Director, Affirmative Action Officer, recruitment staff, and legal staff to address the issue.

Fifty-nine cents. That's how much women earn for every dollar made by men. The popular press is replete with artfully displayed data, some of which is reproduced on the following pages.

To what extent is the Institutional Research Office involved with this data? This paper reports on involvement on two levels. The first level, the "popular press" level, was occasioned by an opportunity to discuss (debate?) the issue with the University President before the State Conference of Business and Professional Women. The second level is the support which institutional research staff might provide in an effort to insure nondiscrimination in salary administration.

Introduction and Perspectives

The concept of comparable worth is generally defined as a policy of paying equal pay for work of **comparable** value. Justice Brennan of the U.S. Supreme Court defined comparable worth as...

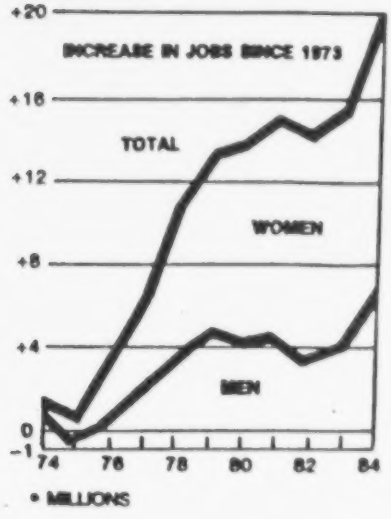
> "...that controversial concept (whereby the plaintiff claims) increased compensation on the basis of a comparison of the intrinsic worth or difficulty of their job with that of other jobs in the same organization or community."

Introduction to "Comparable Worth"

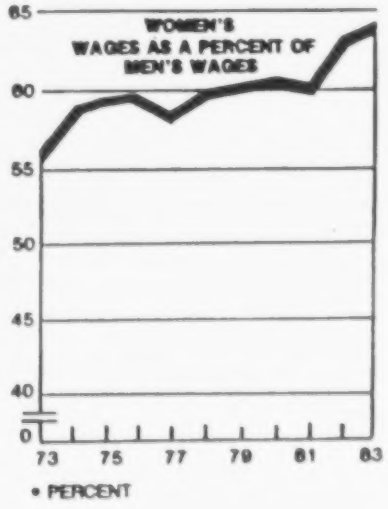
The Lord spoke to Moses and said, Speak to the Isrealites in these words: When a man makes a special vow to the Lord which requires your valuation of living persons, a male between twenty and sixty years old shall be valued at fifty silver shekels, that is shekels by the sacred standard. If it is a female, she shall be valued at thirty shekels.

Leviticus XXVII, 1-5

WOMEN ARE GETTING MORE OF THE NEW JOBS...



...BUT WOMEN'S PAY STILL FALLS FAR SHORT



BUSINESS WEEK January 26, 1985. p. 81.

Women in this country still make about sixty-three cents for every dollar men make, and eighty percent of us are in low-paying jobs.

Business Week January 26, 1985. p. 81.

THE AGE PENALTY ...

Age	Average Earnings Men	Women	Per $1,000 Made by Men
18-24	$12,963	$10,213	$ 788
25-29	18,031	13,297	737
30-34	21,719	14,398	663
35-39	24,802	14,161	571
40-44	26,011	13,798	530
45-49	25,673	13,542	527
50-54	25,175	13,239	526
55-59	25,273	12,952	512

THE MARRIAGE PENALTY ...

Marital Status	Percentage of Working Women	Per $1,000 Made by Men
Married	55 %	$ 546
Single	21 %	815
Divorced	15 %	682
Widowed	5 %	633
Separated	4 %	621
All	100 %	$ 591

... and THE OCCUPATION PENALTY

Women's Earnings per $1,000 Made by Men

Postal Clerks	$ 939	Waitresses	$ 720
Cashiers	920	Accountants	712
Security Guards	907	Lawyers	710
Packers and Wrappers	854	Real Estate Agents	709
Editors and Reporters	850	School Administrators	699
Bartenders	844	Bookkeepers	694
High School Teachers	829	Factory Assemblers	690
Elementary School Teachers	822	Office Machine Operators	688
Nurse's Aides/Orderlies	822	Engineers	678
Textile Operatives	813	Sales clerks	674
Stock Handlers	812	Insurance Agents	671
Physicians & Dentists	809	Health Administrators	655
College teachers	803	Office Managers	655
Social Workers	799	Personnel Workers	643
Cleaning-Service Workers	756	Blue-Collar Supervisors	642
Social Scientists	749	Buyers	623
Computer Programmers	736	Advertising Workers	617
Cooks	734	Financial Managers	602

SOURCE: U.S. Census Bureau Figures, 1982. Cited in Working Women October, 1983. pp. 25-35.

Some Pros and Cons on Comparable Worth

PROS

- Elimination of alleged wage discrimination
- Improved Morale among female employee gorups
- Reversal of historical stereotypes that have undervalued women's jobs
- Elimination of gross pay disparities between men and women
- Bridge the gender gap
- Rejection of stereotypes
- Fair pay / Fair play

CONS

- No universal standard of of how to measure comparable worth exists - no two systems are the same
- All job evaluation systems rely on subjective judgment by the rater(s) and may be no more objective than traditional classification systems
- High Costs of implementation
- May be devisive among employee groups
- Potential litigation
- Opens up an infinity of comparisons
- Could lead to lower salaries for males
- Complicates negotiations with all groups
- Ignores the marketplace (Abandonment of the principles of a free marketplace)
- Limits imposed by private labor market and tax-payers willingness to finance equity

The case for pay equity is based on two constitutional acts that address the issues of sex and race discrimination. Title VII of the Civil Rights Act of 1964 prohibits discrimination based on race, sex, religion, color, or national origin, and the Equal Pay Act (EPA) of 1963 rules that equal wages must be paid for work that is substantially equal with regard to skill, effort, responsibility, and working conditions. The Bennett Amendment to Title VII holds that legally acceptable reasons for pay differentials cited in the EPA -- such as seniority, merit, and per-unit production -- also hold true under Title VII. Comparable worth advocates argued that the Bennett amendment allowed discrimination claims based on dissimilar jobs of comparable worth, a position upheld by the 1981 Supreme Court decision County of Washington vs. Gunther. (1981, 21)

Recently, several comparable worth cases of immediate interest have been dismissed. Among these are Christensen (1977, 18); Lemons (1979, 24); Jacobs (1981; 23); Hein (1983; 22); Spaulding (1984, 30); and Orahood (1984, 29). These and other cases are discussed by Weeks (1985).

On November 26, 1984, the U.S. Supreme Court declined to hear three of these cases that had advanced to that body (Lemons, Spaulding, and Christensen), thereby upholding the decisions of the lower courts. Thus, whatever the validity of the comparable worth approach may have as a compensation criterion to be adopted **voluntarily** by employers, its usefulness as a basis for proving that employers committed illegal sex discrimination in their salary practices is becoming clearer (Flygare, 1985).

The Framework for Litigation

Since the 1970s the number of faculty members who litigated questions regarding sex discrimination in employment grew steadily. Several recent court decisions (see endnotes) provide a basis for a survey of the emerging terrain of equal pay and the implications for colleges and universities.

A faculty member alleging a violation of the Equal Pay Act bears the initial burden of establishing a prima facie case of salary discrimination based on sex. To carry this burden, a faculty member must show that the employer paid more to a faculty member of the opposite sex for the performance, under similar working conditions, of a job requiring substantially equal skill, effort, and responsibility.

Parties generate data for the courts in one of two ways--pairing or multiple regression analysis. More commonly used, pairing selects a "comparator" - a male faculty member who performs a comparable job--and demonstrates to the court that the jobs are substantially equal and the male receives greater compensation. In multiple regression analysis, a quantitative estimate is made about the effects of independent variables--such as degree, years of experience, institution from which degree was received, publications, and other matters--are used to predict a salary for individuals of like characteristics. Predicted salaries and actual salaries are compared for the individuals who allege sex discrimination. Regression analysis is used primarily in class action lawsuits; the technique is discussed in Scott (1977); Braskamp et. al. (1978); Muffo (1983); and AIR Professional File No. 20, (Allred, Fall 1984).

If regression analysis is used in litigation, expert testimony is required. Both sides often produce statisticians who dispute each other's works. On cross examination, each party scrutinizes the opposing expert's analysis, particularly regarding whether the relevant variables were included in the regression analysis. One court described the technique and the process as follows:

> Multiple regression is a relatively sophisticated means of determining the effects that any number of different factors have on a particular variable; while it may be the best, if not the only, means of proving classwide discrimination with respect to compensation...it is subject to misuse and thus must be employed with great care. Ideally, when a multiple regression analysis is used, it will be subject to expert testimony and knowledgeable cross examination from both sides. In this manner, the validity of the model and the significance of its results will be fully developed at trial, allowing the trial judge to make an informed decision as to the probative value of the analysis (Wilkins, 654 F.2d).

Another judge took a less complimentary view of the process, however, stating that "Mark Twain supposedly once said that there are three kinds of lies: lies, damn lies, and statistics. Though perhaps hyperbolic, this declaration of distrust aptly warns that any conclusion based on this statistics may be unsound." (Sobel, 566 F. Supp.).

In several recent clases, plaintiffs have failed to establish a prima facie case: Jacobs (1981, 23); Orahood (1984, 29); Hein (1983, 22); and Spaulding (1984, 30). Plaintiffs were successful, however, in Marshall (1980, 26); Melanson (1980, 27), Winkes (1984, 31), and McCarthy (1983, 19).

If a faculty member establishes a prima facie case, then the burden shifts to the defendant college or university to demonstrate that one of four statutory exceptions accounts for the salary discrepancy. The four statutory exceptions, which amount to affirmative defenses, are (1) a seniority system; (2) a merit system; (3) a system which measures earning by quantity or quality of production; or (4) a differential based on any factor other than sex.

The most common defenses offered by colleges and universities are that salary differences are explained by a merit system or by market factors. The "Merit System" defense was successful in those cases where the university used a merit system based on competent teaching and research; the merit system was written into the university's personnel policies, and faculty members were familiar with its focus. The argument was strengthened when the merit system was formalized into base salary tables and "applied in a fair and sex-neutral manner." Where the merit system was operated "in an informal and unsystematic manner", the defense was not successful.

For the "market place factors" defense to be successful, it was necessary that the college provide specific evidence that it had assessed the market rates for a particular faculty position.

Some institutions have taken a proactive stance, and--while not admitting any existing discrimination--have made salary (parity) adjustments to women employees who appear to be below the mean. This action has prompted reverse discrimination suits by males who content that now they should likewise have their salaries adjusted to the mean. (Dawes, 1975, 28; Lyon, 1982, 25; and Ende, 1983, 20).

It is quite clear that colleges and universities can pay faculty different salaries: considering the myriad factors affecting salary determinations, valid reasons often exist for paying men higher average salaries than women or women higher average salaries than men. Many institutions take into account factors such as degree, prior experience, publication record, source of the degree, and other nondiscriminatory or neutral factors.

While the debate rages on, the necessity remains for all employers to closely monitor salaries and wages paid to all employees, including analysis for possible discrimination by sex, race, religion, national origin, handicap.

Implications for the Institutional Researcher

The Institutional Researcher often has the opportunity to work with many key campus offices on questions of campus-wide interest. General familiarity with the issues of salary parity and of comparable worth can prove thought-provoking in a discussion or presentation relating to affirmative action, labor union negotiations, and personnel and salary administration.

BIBLIOGRAPHY

1. _____ "Women's Work -- and Wages." Newsweek. July 9, 1984. 22-23.

2. Allard, Celia A. "Assessing Faculty Salary Equity." AIR Professional File No. 20, Fall 1984.

3. Begin, James Po., and Lee, Barbara A. "Collective Bargaining in Higher Education: A Look Ahead." Journal of College and University Personnel Administration. 36: 2. Spring/Winter 1985. 6-15.

4. Bergmann, Barbara R. "'Comparable Worth' for Professors." AAUP, 1983.

5. Braskamp, L.A., Muffo, J.A., and Langston, I.W. "Determining Salary Equity." Journal of Higher Education 49 1978. 231-246.

6. Fearn, Robert M. "Discrimination in Employment, Earnings, and Human Capital". in Labor Economics: The Emerging Synthesis. Cambridge, Mass.: Winthrop Inc. 167-185. February 15, 1984. 17.

7. Fields, Cheryl M. "'Comparable Worth' and Affirmative Action Assailed in Reagan Budget Documents". Chronicle of Higher Education . February 15, 1984. 17.

8. Flygare, Thomas J. "Comparable Worth Rejected in Faculty Salary Case". Phi Delta Kappan January 1985. 370-371.

9. Hacker, Andrew. "Why Women Still Earn Less than Men." Working Mother. October 1983. 25-35.

10. Hansen. W. Lee. "Salary Differences across Disciplines." Academe. V. 71 # 4. July-August 1985.

11. Koch, James V. "The Gunther Case, Comparable Worth, and Implications for Academe." Educational Record. Spring 1983. 38-43.

12. Morrell, Louis R. "Develop a Position on Comparable Worth - Now." AGB Reports March/April 1985. 32-34.

13. Muffo, J.A. and Hengstler, D.D. "Statistical Issues in Comparing Women and Men Faculty with Applications in Sex Discrimination.: AIR FORUM, 1983.

14. Scott, E.L. "Higher Education Salary Evaluation Kit." Washington, D.C.: AAUP, 1977.

15. Sojka, Gary A. "Balancing Academic Performance and Market Conditions. " Academe. V. 71 No. 4. July-August 1985. 11-12.

16. Wegmann, Robert G. "Looking for Fork in a New Economy." Change. July/August 1985. 41-47.

17. Weeks, Kent M. "Equal Pay: The Emerging Terrain." Journal of College and University Law 12:1. Summer 1985. 41-60.

COURT CASES

18. Christensen v. State of Iowa 563 F.2d 353 (8th Cir. 1977).

19. EEOC v. McCarthy 578 F.Supp. 45,47 (D. Mass. 1983).

20. Ende v. Board of Regents. 565 F. Supp. 501 (N.D. Ill. 1983).

21. Gunther v. County of Washington 452 U.S. 161, 101 S. Ct. 2242, 68 L.Ed.2d 751 (1981).

22. Hein v. Oregon College of Education. 718 F.2d 910 (9th Cir. 1983).

23. Jacobs v. College of William and Mary. 517 F.Supp. 791 (E.D. Va. 1980), aff'd 661 F.2d 922 (4th Cir.), Cert. Denied, 454 U.S. 1033 (1981).

24. Lemons v. City and County of Denver 620 F.2d 228 (10th Cir.), cert. denied, 449 U.S. 888, 101 S. Ct. 244, 66 L.Ed.2d 114 (1980).

25. Lyon v. Temple University, 543 F. Supp. 1372 (E.D. Pa. 1982).

26. Marshall v. Georgia Southwest College 489 F. Supp. 1322 (M.D. Ga. 1980)

27. Melanson v. Rantoul 536 F. Supp. 271. 286 (D.R.I. 1982).

28. Nebraska Board of Regents v. Dawes, 522 F.2d 380 (8th Cir. 1975), cert. denied, 424 U.S. 914 (1976).

29. Orahood v. Board of Trustees of the University of Arkansas 645 F.2d 651, 654 (8th Cir. 1981).

30. Spaulding v. University of Washington 740 F.2d 686 (9th Cir.), cert denied, 105 S. Ct. 511 (1984)

31. Winkes v. Brown University 747 F.2d 792 (1st Cir. 1984) 32 Empl. Prac. Dec. (CCH) 33.921 (D.R.I. 1983); reviewed, 747 F.2d 792.d